

Department of Transportation Drug and Alcohol Regulations

Big Creek Elementary School District
55190 Point Road, Big Creek, CA 93605



Federal Motor Carrier Safety Regulations,
Title 49 of the
Code of Federal Regulations
Part 382
(FMCSR 49 CFR § 382)

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WHO MUST COMPLY?

All employers who employ any driver with a commercial driver's license (CDL) and:

- Operate any commercial motor vehicle with a gross weight vehicle rating (GWVR) of 26,001 pounds or more.
- Operate any vehicle with a manufacturer's rating of transporting 16 or more persons, including the driver.
- Operating any vehicle requiring hazardous material placards to be displayed.

WHEN DO REGULATIONS APPLY?

Applies to all employees when they are performing "Safety Sensitive" functions.

For CDL holders, this is on-duty time.

On-duty time is defined as the time a driver begins work, or is required to be ready to work, until the driver is relieved from work.

(FMCSR § 395.2)

WHAT DRUGS ARE COVERED?

- Alcohol
- Amphetamines
 - (Methamphetamines, MDMA, MDA)
- Phencyclidine (PCP)
- Opioids
- Codeine/Morphine
- 6-AM (Heroin)
- Hydrocodone/Hydromorphone
- Oxycodone/Oxymorphone
- Cocaine
- Marijuana

Refer to FMC Safety Regulations, Subpart B – Drug Testing Section 40.21. All of these drugs will disqualify a driver from performing duties.

EFFECTS OF PROHIBITED SUBSTANCES

ALCOHOL – ITS EFFECTS ON DRIVING

- Slurred Speech
- Aggressiveness
- Blackouts
- Slowed Reaction Time
- Impaired Judgment
- Memory Loss
- Incoherentness
- Hostility
- Drowsiness
- Tunnel Vision
- Coma
- Increased Tolerance Level
- Distorted Sense of Time & Distance
- Blurred or Distorted Vision
- Short Attention Span
- Unsteadiness
- Nausea

EFFECTS OF PROHIBITED SUBSTANCES

(CONTINUED)

AMPHETAMINES-Methamphetamines, MDMA, MDA:

Signs and symptoms

- Hypersensitivity
- Sweating
- Exhaustion
- Loss of Appetite
- Dilated Pupils
- Dry Mouth
- Grinding Teeth
- Excessive Talking

EFFECTS ON DRIVING:

- Impaired Judgment
- More likely to take risks
- Delayed Reaction Time
- Impaired Muscle Coordination

OVERREACTIONS, Such as:

- Over-breaking
- Over-accelerating
- Over-steering

EFFECTS OF PROHIBITED SUBSTANCES

(continued)

PHENCYCLINDINE (PCP): Signs and Symptoms

- **Delusions**
- **Confusion**
- **Panic**
- **Increased Blood Pressure**
- **Anxiety**
- **Flashbacks**

EFFECTS ON DRIVING:

- **More likely to take risks**
- **Aggressive actions with vehicle**
- **Impaired Coordination**

EFFECTS OF PROHIBITED SUBSTANCES

(CONTINUED)

OPIOIDS-Codeine/Morphine/6-AM(Herion) Hydrocodone/Hydromorphone/Oxycodone/ Oxymorphone: Signs and Symptoms

- Mental Confusion
- Memory Loss
- Excessive Talking
- Unsteadiness
- Slurred Speech
- Hostility
- Reduced Feeling to Pain
- Euphoria
- Short Attention Span
- Cold, Moist, or Bluish Skin
- Drowsiness
- Depression

EFFECTS ON DRIVING:

- Impaired Coordination
- Excessive Daydreaming

EFFECTS OF PROHIBITED SUBSTANCES

(CONTINUED)

COCAINE: Signs and Symptoms

- **Mood Swings**
- **Depression**
- **Weight Loss**
- **Restlessness**
- **Nose Bleeds**
- **Irritability**
- **Bad Breath**
- **Euphoria**
- **Runny Nose**
- **Uncontrollable Sniffing**

EFFECTS ON DRIVING:

- **Slowed Reaction Time and response to traffic situations.**
- **Distorted Vision and Depth Perception.**
- **Slow to Make Decisions.**
- **Unable to Correctly Measure Time & Distance.**

EFFECTS OF PROHIBITED SUBSTANCES

(continued)

MARIJUANA: Signs and symptoms

- Dilated Pupils
- Giddiness
- Insomnia
- Slow Reflexes
- Moodiness
- Short Term Memory Loss
- Reduced Concentration
- Drives Too Slow
- Odor of Burning Rope
- Slow Thinking
- Increased Appetite

EFFECTS ON DRIVING:

- Slowed Reaction Time
- Distorted Vision and Depth Perception
- Slower Response to Traffic Situations
- Slowed Decision Time
- Unable to Correctly Measure Time & Distance

TYPES OF TESTS

§ 382.301 Pre-employment Testing

- Prior to the first time a driver performs safety sensitive functions for an employer, the driver shall undergo testing for alcohol and controlled substances unless the employer uses the exception...in this section. (*Requirement for alcohol pre-employment testing was vacated on May 1, 1995.*)

EXCEPTIONS: An employer is not required to administer a controlled substances pre-employment test if:

- The driver has participated in a controlled substances testing program that meets the requirements of this part in the last 30 days, and while participating in the program either;
 - was tested for controlled substances in the past six months from the date of application.
 - participated in a random controlled substances testing program continuously for the previous 12 months from the date of application.
- An employer that exercises any of the exceptions must verify that any program which the driver has participated in has not recorded a controlled substances violation in the past 6 months.

TYPES OF TESTS

§ 382.305 Random Testing

- 10 percent of the number of drivers shall be selected for random alcohol testing.
(Eff. 1/1/98)
- 50 percent of the total number of drivers shall be selected for random controlled substances testing.
(Eff. 01/01/20)
- Selection of drivers shall be made using a scientifically valid method (we are using Social Security numbers selected at random).
- Tests must be unannounced and reasonably spread throughout the calendar year.
- Employer shall require that the driver report immediately to test site after notification.
- Drivers will be tested for alcohol just before, during, or just after performing safety-sensitive functions.

TYPES OF TESTS

(CONTINUED)

§ 382.303 Post-Accident Testing

The driver shall be tested for alcohol and controlled substances **AS SOON AS PRACTICABLE** after an accident whenever:

- There is any loss of human life.
- The driver is cited for a moving violation as a result of the accident, and
 1. One or more vehicles are disabled and must be towed from the scene, or
 2. A person who receives a bodily injury and must immediately be treated away from the scene.

TYPES OF TESTS

(CONTINUED)

§ 382.303 Post Accident Testing

- Alcohol test will be administered within 2 hours.
- Controlled substance test will be administered within 32 hours.

If either one of these tests is not performed during the allotted time period, the employer shall prepare and maintain a record stating reasons why the test was not administered promptly. An alcohol test may be collected up to 8 hours following an accident!

AVAILABILITY – Any driver subject to post-accident testing shall remain readily available to be tested or they will be deemed to have refused testing.

Exception: Only if driver is in need of medical attention.

TYPES OF TESTS

(CONTINUED)

§ 382.307 Reasonable Suspicion Testing

- Drivers are required to submit to an alcohol or controlled substances test when a supervisor has reasonable suspicion to believe that the driver has violated the prohibitions concerning alcohol or controlled substances.
- Employer's determination that reasonable suspicion exists must be based on specific, concurrent, articulated observations concerning appearance, behavior, speech and/or body odors.

For controlled substances, indications of chronic and withdrawal effects of controlled substances may be noted.

- Observations must be witnessed and noted by a trained supervisor.

TYPES OF TESTS

(CONTINUED)

§ 382.307 Reasonable Suspicion Testing

- An alcohol test sample must be provided within 2 hours, and a controlled substances test administered within 32 hours, or the employer shall maintain on file a record stating the reasons why the test was not promptly administered.

- Alcohol tests can only be administered just prior, during, or just after performing safety sensitive functions. A sample may be collected up to 8 hours following the observations.

All reasonable suspicion observations must be noted on a written record and signed by the supervisor or company official within 24 hours or prior to test results being released.

If a supervisor has reasonable suspicion, does that mean that he or she thinks a driver is under the influence of alcohol or controlled substances?

If there is reasonable suspicion on the part of a supervisor, the driver must be asked to participate in a medical evaluation, which may or may not include an Alcohol and/or Controlled Substances screen.

If a supervisor has expressed reasonable suspicion, it does not necessarily mean that he or she considers a driver to be under the influence.

Behavior may be affected by:

- A divorce or other domestic problems
- An illness (usually, driver is unaware)
- Diabetes
- Concussion
- Occupational illness or injury
- Progressive loss of any one of the 5 senses.

TYPES OF TESTS

(continued)

§ 382.309 Return-to-Duty Testing

Before a driver may return to duty and has violated any of the prohibitions concerning alcohol, the driver must submit to a return-to-duty test with a result indicating a concentration less than 0.02.

For a controlled substances violation, the test result must be verified negative.

§ 382.311 Follow-up Testing

Employer must notify a driver that they will be subject to unannounced follow-up testing (6 tests the first year, 2 tests thereafter for up to 5 years) as directed by the substance abuse professional after rehabilitation.

PROHIBITED PRACTICES

(§ 382 subpart)

§ 382.201 – Alcohol Concentration

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.04 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.

However, if a driver's test indicates an alcohol concentration of 0.02 or greater and less than 0.04, they must be removed from duty for a minimum of 24 hours. (§ 382.505)

PROHIBITED PRACTICES

(continued)

§ 382.205 On-Duty Use of Alcohol

No driver shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a driver is using alcohol while performing safety-sensitive functions shall permit the driver to perform or continue to perform safety-sensitive functions.

§ 382.207 Pre-Duty Use of Alcohol

No driver shall perform safety-sensitive functions within four hours after using alcohol. No employer having actual knowledge that a driver has used alcohol within four hours shall permit a driver to perform or continue to perform safety-sensitive functions.

§ 382.209 Alcohol Use Following an Accident

No driver required to take a post-accident alcohol test under § 382.303 of this part shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

PROHIBITED PRACTICES

(continued)

§ 382.213 Controlled Substances Use

(a) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

(b) No employer having actual knowledge that a driver has used a controlled substance shall permit the driver to perform or continue to perform a safety-sensitive function.

(c) An employer may require a driver to inform the employer of any therapeutic drug use.

§ 382.215 Controlled Substances Testing

No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances. No employer having actual knowledge that a driver has tested positive for controlled substances shall permit the driver to perform or continue to perform safety-sensitive functions.

Consequences for Drivers Engaging in Controlled Substances Use Related Conduct

§ 382.501 Removal from Safety Sensitive Functions

- (a) ...no driver shall perform safety sensitive functions...
- (b) No employer shall permit driver to perform safety sensitive functions...

§ 382.503 Required Evaluation and Testing

No driver who has engaged in prohibited conduct...shall perform a safety-sensitive function unless he has met the requirements of § 382.605.

§ 382.605
Referral, Evaluation, and
Treatment
(summary)

- (a) Employer must advise drivers of resources available in evaluating and resolving problems of misuse of alcohol and/or controlled substances.**

- (b) Driver must be evaluated by a Substance Abuse Professional (SAP) to determine rehabilitation necessary.**

- (c) Before a driver returns to duty, they must:**
 - Complete a negative return-to-duty test.**

 - Be evaluated by a SAP to ensure rehabilitation.**

 - Agree to and pass all follow-up tests.**

PROHIBITED PRACTICES

(continued)

§ 382.211 Refusal to submit to a required alcohol or controlled substances test.

No driver shall refuse to submit to a *post-accident alcohol or controlled substances test* required under § 382.303, a *random alcohol or controlled substances test* required under § 382.305, a *reasonable suspicion alcohol or controlled substances test* required under § 382.307, or a *follow-up alcohol or controlled substances test* required under § 382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.

WHAT CONSTITUTES A REFUSAL?

- You say “NO”.
- You fail to provide adequate breath for testing without a valid medical reason.
- You fail to provide adequate urine for testing without a valid medical reason.
- You engage in conduct which “clearly obstructs” the testing process.
- You fail to make yourself available for post-accident testing.

A refusal is treated as a positive and the driver:

- Must be removed from duty.
- Must be referred to a Substance Abuse Professional.

PENALTIES & CONSEQUENCES

For Drivers, violations may mean loss of job, loss of license, referral to a Substance Abuse Professional, subsequent counseling, civil penalties, and criminal penalties that may include fines and incarceration.

In California, a positive controlled substances result must be reported to the Department of Motor Vehicles within five (5) working days. By law a school bus endorsement must be suspended for a period of three (3) years.

For employers, violations may mean heavy fines, loss of insurance, and possibility of major liability if an accident occurs where drugs or alcohol is involved and required to Report to CLEARINGHOUSE.

§ 382.601 Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.

Materials to be made available to drivers shall include a detailed discussion on at least the following:

B. Required content: Materials to be made available to drivers shall include a detailed discussion on at least the following:

1. The identity of the person designated by the employer to answer driver question about the materials;
2. The categories of drivers who are subject to the provisions of this part;

- 3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance with this part;**
- 4. Specific information concerning driver conduct that is prohibited by this part;**
- 5. The circumstances under which a driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing under §382.303(d);**
- 6. The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of test results, and ensure that those test results are attributed to correct driver, including post-accident information, procedures, and instructions required by § 382.303 (d) of this part;**
- 7. The requirement that a driver must submit to alcohol and controlled substances tests administered in accordance with this part;**
- 8. An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;**

9. The consequences for a driver found to have violated subpart B of this part, including that the driver be removed immediately from safety-sensitive functions, and the procedures under Part 40, subpart O, of this title;
10. The consequences for drivers found to have an alcohol concentration 0.02 or greater but less than 0.04;
11. Information concerning effects of alcohol and controlled substances use on an individual's health, work and personal life; signs and symptoms of an alcohol or controlled substances problem (the driver's or a coworker's); and available methods for intervening when an alcohol or controlled substances problem is suspected, including confrontation, referral to an employee assistance program and/or referral to management; and
12. The requirement that the following personal information collected and maintained under this part shall be reported to the clearinghouse:
 - (i) A verified positive, adulterated, or substituted drug result;
 - (ii) An alcohol confirmation test with a concentration of 0.04 or higher;
 - (iii) A refusal to submit to any test required by subpart C of this part;

- (iv) An employer's report of actual knowledge, as defined at §382.107:
 - (A) On duty alcohol use pursuant to §382.205;
 - (B) Pre-duty alcohol use pursuant to §382.207;
 - (C) Alcohol use following an accident pursuant to §382.209; and
 - (D) Controlled substance use pursuant to §385.213;
- (v) A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;
- (vi) A negative return-to-duty test; and
- (vii) An employer's report of completion of follow-up testing.

Does the Employer have to pay for rehabilitation.

§ 382.605 (d) Evaluation and rehabilitation may be provided by the employer, by a substance abuse professional under contract with the employer, or by a substance abuse professional not affiliated with the employer.

The choice of substance abuse professional and assignment of costs shall be made in accordance with employer/driver agreements and employer policies.

RECORDKEEPING and CONFIDENTIALITY

§ 382.401 Retention of Records

In order to protect your mind from complete overload, we will discuss this in a simple manner.

If you ever want to start pulling out your hair and become really confused, read this section!

TESTING

Instead of going over every rule that states whether or not a test is done properly, we will simply go over valid test procedures. These procedures are listed in Title 49 Part 40.

You are encouraged to ask questions as we go along.

**IF YOU HAVE ANY QUESTIONS
REGARDING:**

Proper testing procedures.

Record Keeping.

Reasonable Suspicion.

If a driver should be tested.

ASK YOUR SUPERVISOR

YOUR RESPONSIBILITIES AS A CARRIER

All of these conditions are listed in the contract between your district and CRMA:

- * Cooperate fully with testing procedures.**

- * Develop a bus driver policy.**

- * Maintain records on test results, reasonable suspicion and on any actions taken by the District which are DOT related.**

DOT Drug and Alcohol Training Record

I, _____, have received at least one hour of training regarding the DOT Drug and Alcohol Testing Program and have had the following items answered to my satisfaction:

1. Identity of persons designated by the employer to answer driver questions about materials;
2. The categories of drivers who are subject to the provisions of this part;
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance with this part;
4. Specific information concerning driver conduct that is prohibited by this part;
5. The circumstances under which the driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing under § 382.303;
6. The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing process, safeguard the validity of test results, and ensure that those test results are attributed to correct driver, including post-accident information, procedures, and instructions required by § 382.303 (d) of this part;
7. The requirement that a driver must submit to alcohol and controlled substances tests administered in accordance with this part;
8. An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;
9. The consequences for driver found to have violated subpart B of this part, including that the driver be removed immediately from safety-sensitive functions, and the procedures under § 382.605;
10. The consequences for driver found to have an alcohol concentration 0.02 or greater but less than 0.04;
11. Information concerning effects of alcohol and controlled substances use on an individual's health, work and personal life; signs and symptoms of an alcohol or controlled substances problem (the driver's or coworker's); and available methods for intervening when an alcohol or controlled substances problem is suspected, including confrontation, referral to an employee assistance program and or referral to management;
12. The consequences for driver of a positive alcohol and/or controlled substance test.
13. The employee/driver has received information regarding the FMCSA DOT CLEARINGHOUSE.
14. The employee/driver has been notified the **Big Creek Elementary School District** is required to enroll all Commercial Drivers in the **DOT CLEARINGHOUSE**.

Signature _____ Date _____